

**ATTORNEY DOCKET NO. 06142.0004U1
APPLICATION NO. 10/568,258**

Remarks

Claims 1, 21, 23 and 24 have been amended, and claim 28 added. Claims 22 and 25-27 have been cancelled. Claims 1-21, 23, 24 and 28 remain in the application. Reconsideration of the rejections and objections at an early date is requested.

The Examiner rejected claims 22-24 under 35 U.S.C. 112, second paragraph, as being indefinite. Claim 22 has been canceled. Claims 23 and 24 are now dependent on new claim 28, and it is submitted that these claims are thus not indefinite.

Claims 1-14, 17, 18 and 21-27 were rejected under 35 U.S.C. 102(b) as being anticipated by Hickle (Publication No. US2004/0129273 A1). Independent claims 1 and 21 have been amended to specifically refer to an attachment means. Support for this amendment may be found at page 5, lines 18-19 of the specification.

Hickle can be distinguished from Applicant's invention in one important respect. Hickle has attachment means for attaching the bite block to the patient located on the bite block itself (see arms 54 and 58, and attachment lugs 53). It will be noted that the present invention has a quite different attachment arrangement. That is, after the procedure in which the bite block is used has been completed, the bite block can be removed, and yet gas can continue to be supplied to the patient via the gas distribution manifold. The manifold is thus shaped and configured to supply gas to the patient when it is disengaged from the bite block. Gas is supplied to the nasal cavities of the patient, and gas is directed over or towards the mouth of the patient.

The ability of the apparatus of the invention to supply gas to the patient both during endoscopic procedures, and during subsequent procedures, as well as during post-operative recovery, enables gas to be supplied by means of a single item of equipment, rather than with two items of equipment, as would currently be required, or would be required if the Hickle device was used. Typically a patient will undergo an endoscopic investigation, and that procedure would be immediately followed by a colonoscopy, after which the patient would be moved to a recovery room. The Hickle device could be used to supply gas during the endoscopic

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procedure, but thereafter a gas mask would need to be fitted to the patient, to supply gas during the colonoscopy procedure and for the recovery process. Clearly, supplying and fitting the gas mask adds to the cost and procedural intricacies of the treatment.

It should be noted that Hickle does not describe or suggest that gas could be supplied to the patient after the bite block has been removed. Reference to Figure 7 clearly indicates that the Hickle manifold is not practically capable of being used for supplying gas to the patient when not connected to the bite block. First, there is no arrangement for attaching the manifold to the patient. Second, the "oral delivery chambers 78" are clearly adapted to be inserted into the channels 52 in the bite block and have no other function. If, for example, the manifold 81 was somehow attached to the patient (which is not described or discussed), the chambers 78 would project in an uncomfortable and medically unacceptable manner into the mouth of the patient, interfering with normal breathing, swallowing and the like. Certainly, the chambers 78, being perpendicular to the nasal passages 76 would not project gas over or towards the mouth of the patient, but rather into mouth the patient. The fact that there are two chambers 78, each shaped and configured to fit into channels 52, further indicates that use of the manifold 81 when not connected to the bite block is simply not contemplated by Hickle.

To enable gas to be supplied to the patient when the manifold is not attached to the bite block, the gas distribution manifold must be attached to the patient. This will ensure that the manifold remains in position when not attached to the bite block, and for this reason attachment means is provided on the manifold. The attachment means can be of various forms (see attachment lugs 95 shown in the drawings, or other attachment means discussed in paragraph 0064 of the published US specification).

As stated above, claims 1 and 21 have been amended to specifically refer to the attachment means. Applicant respectfully submits that claims 1 and 21 are now allowable, based on the amendments and the discussion above. Furthermore, claims 2-20, dependent directly or indirectly on claim 1, are also allowable.

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A new method claim 28 has been added to the claims, and claims 23 and 24 are now dependent on claims 28. Claim 28 related to the use of the apparatus described, and, thus, claims 23, 24 and 28 should also be allowable.

A Credit Card Payment Form PTO-2038 authorizing payment in the amount of \$60.00 for a One-Month Request for Extension of Time for a small entity under 37 C.F.R. § 1.17(a)(1) is enclosed. This amount is believed to be correct, however, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,

NEEDLE & ROSENBERG, P.C.

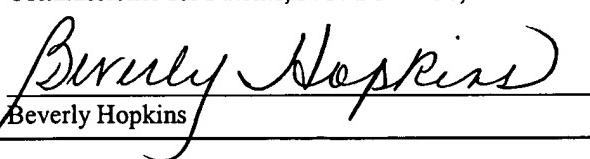


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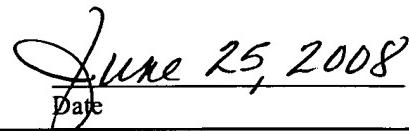
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June 25, 2008
Date